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COURT OF APPEAL - FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

ANGELA G.,

Petitioner,

v.

THE SUPERIOR COURT OF SAN
DIEGO COUNTY,

Respondent;

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Real Party in Interest.

D054397

(San Diego County
Super. Ct. No. J516747)

PROCEEDINGS for extraordinary relief after reference to a Welfare and Institutions Code section 366.26 hearing. Carol Isackson, Judge. Petition denied.

Angela G. seeks writ review of orders terminating her reunification services and setting a Welfare and Institutions Code section 366.26 hearing regarding her daughter, Jazmin A. She contends the court erred by finding she was provided reasonable services.

Angela has forfeited her arguments because she did not raise them in the lower court. Moreover, she did not show that reasonable services were not offered or provided. We thus deny the petition.

FACTUAL AND PROCEDURAL BACKGROUND

On June 27, 2007, the San Diego County Health and Human Services Agency (the Agency) petitioned on behalf of two-month-old Jazmin, alleging Angela was unable to provide regular care in that she (Angela) was developmentally delayed, had run out of infant formula for an entire day, did not care for Jazmin's rash, did not wake up to care for Jazmin and did not appear to understand what was happening around her.

Angela and Jazmin lived with a cousin, who provided care for Jazmin. Angela was illiterate and depended on her cousin for support. The social worker reported she seemed incoherent during an interview. Angela reported some domestic violence with Jazmin's father, Francisco A., but did not appear to understand why this was of concern. The court ordered Jazmin detained.

The court found the allegations of the petition true, declared Jazmin a dependent child of the court, ordered her placed with relatives and ordered Angela and Francisco to comply with their case plans. Angela's plan included counseling, mental health services, a psychological/psychiatric evaluation and parenting classes.

The social worker reported the psychologist who evaluated Angela found her to be mildly mentally retarded and probably not able to benefit from services. Angela enrolled in a parenting class and began therapy. At the six-month review hearing, the court ordered Jazmin continued as a dependent child and continued services.

On April 29, 2008, the social worker petitioned under Welfare and Institutions Code section 387 because the relatives with whom Jazmin had been placed were no longer willing to provide care. On June 26 Jazmin was placed in foster care.

In the report for the 12-month hearing, the social worker recommended continuing services and noted Angela needed a medical evaluation. Francisco had been arrested for driving under the influence, and he may have been deported. Angela completed a parenting class and, after earlier refusing to work with the San Diego Regional Center (SDRC), had an initial meeting there.

In an addendum report, the social worker reported Angela was beginning to make some progress in therapy. Angela said she was turned away from the San Diego County Mental Health offices because she did not have a Social Security card or Medi-Cal. SDRC staff said they could provide a parenting class that was appropriate for her, and, if she were granted more time in services, they would be able to assess her and provide support services.

Angela's therapist reported Angela had not made much progress. She had attended 15 therapy sessions, but missed 24 sessions. She had had a medical evaluation and was given a prescription for medication. SDRC reported it could offer only limited services because Angela was undocumented.

At the 18-month hearing on January 6, 2008, the parties agreed that if the social worker were to testify he would say he told Angela to continue her therapy, but was aware she needed a new payment authorization. If Angela were to testify, she would state she had thought payment problems required her to stop therapy, but she now had an

appointment to resume therapy. She also would say she was receiving services through SDRC and wanted Jazmin returned to her care.

The court found Angela had been provided or offered reasonable services and returning Jazmin to her care would present a substantial risk of detriment to Jazmin. It terminated services and set a Welfare and Institutions Code section 366.26 hearing.

DISCUSSION

Angela contends she was not provided reasonable reunification services. She argues the Agency delayed in administering psychological and medical evaluations, and she was not offered services geared for her special needs. She also argues services should have been extended beyond the 18-month date.

The Agency contends the matter should be dismissed because Angela did not raise the issue at the hearing. "A party forfeits the right to claim error as grounds for reversal on appeal when he or she fails to raise the objection in the trial court." (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 221-222.) A "reviewing court ordinarily will not consider a challenge to a ruling if an objection could have been but was not made in the trial court. [Citation.] . . . [¶] Dependency matters are not exempt from this rule." (*In re S.B.* (2004) 32 Cal.4th 1287, 1293, fn. omitted.) At the hearing, Angela did not complain that her services were inadequate, she did not ask that services be extended beyond the 18-month date and she made no objection when the court noted she had not raised the issue of reasonable services. She has forfeited her present arguments.

In any event, Angela did not show that reasonable services were not provided to her. A reviewing court must uphold a juvenile court's findings and orders if they are

supported by substantial evidence. (*In re Amos L.* (1981) 124 Cal.App.3d 1031, 1036-1037.) "[W]e must indulge in all reasonable inferences to support the findings of the juvenile court [citation], and we must also ' . . . view the record in the light most favorable to the orders of the juvenile court.'" (*In re Luwanna S.* (1973) 31 Cal.App.3d 112, 114.) In determining the sufficiency of reunification services the role of the appellate court is to decide "whether the record discloses substantial evidence which supports the juvenile court's finding that reasonable services were provided or offered." (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762.) A service plan must take into account the specific needs of the family. (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414.) The standard is not that the best possible services were provided, but that reasonable services were provided under the circumstances. (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.) The appellant bears the burden to show the evidence is insufficient to support the court's findings. (*In re Geoffrey G.* (1979) 98 Cal.App.3d 412, 420.)

Angela has not sustained her burden to show a lack of substantial evidence to support the court's findings. The Agency offered therapy, a parenting class and attempted to have Angela become involved with SDRC. Angela resisted taking this option for several months and, once she accepted the need for SDRC assistance, SDRC determined it could offer only very limited services because of Angela's undocumented status. The difficulty in this case was not that the Agency did not offer reasonable services, but that Angela was not able to benefit from the services available. The psychologist who evaluated her stated, "Given the level of delay and the absence of a sense of discomfort with her behavior, [Angela] is not likely to benefit from reunification services as to

become the sole caretaker for her child." It was Angela's lack of capacity, not the inadequacy of services, that caused reunification efforts to be unsuccessful.

The court also did not err by not continuing services beyond the 18-month date. Angela did not ask for services to be continued, she was not prevented from participating in services by external factors and no evidence was presented to indicate she would be able to provide adequate care for Jazmin even if reunification services were extended to a later date. Angela had not shown error.

DISPOSITION

The petition is denied.

McCONNELL, P. J.

WE CONCUR:

McINTYRE, J.

AARON, J.